



**MINUTES OF MEETING OF THE CITY COUNCIL  
OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, July 16, 2002, 8:00 p.m.**

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**MEETING**

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Hilson.

**ROLL CALL**

Present: COUNCIL MEMBERS Jimenez, Hilson,  
Rodriquez, Ward, Dowling, Henson  
MAYOR Cooper  
Absent: None

**PUBLIC COMMENTS**

Bob Billmire spoke on the 238 Bypass and stated that Measure L was a citizen's legislation, and because of this it legally, cannot be replaced with another initiative. He distributed further information relating to this and described ACTA actions as antics in defending the bypass.

Susan McDonough, field representative for SEIU Local 790, described the situation of Anna Tatum, a 23-year Police Department employee, and asked members to look carefully at this personnel case.

There was a two-minute break at 8:10 p.m.

Jason Moreno asked whether Hayward taxi drivers are required to have background information verified.

City Manager Armas indicted that a thorough background check is done on each applicant before a license is issued.

Barbara Swarr spoke on the need for community preservation at particular locations in the downtown, as well as general redevelopment in the area downtown.

Tom Silva, a landlord in Southern Hayward, spoke about gunfire incidents on Forselles Way over the weekend, and asked for an increased police presence in that area. He asked for further consideration in finding long-term solutions.

James Reid, owner of Tennyson West Apartments, commented on the property management efforts made to assist the residents in the Tennyson area. He commented that increased security has eroded the funding they would have available for social services in the area. He asked Council to move to clean up the neighborhood on Forselles Way.

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Bishop Macklin emphatically expressed his concerns for this neighborhood and the dangerous situations in the same area. He commented that the neighborhood is discussing efforts that could cost over \$10,000 a month to secure the area. He asked for an immediate response from the Police Department and suggested an ad hoc committee to establish a long-range strategy for this area.

Lynette Mercado, resident manager of Hayward Villa Apartments for seniors living in the hospital located on Tampa Avenue, facing Weekes Park, noted that seniors are afraid to walk to the store or through the park. She commented that they are having to procure security iron gates on that parking lot. She added that cleaning up the streets might just drive the dealers back into the park.

James Tucker, 27574 Tyrell Avenue, a property owner, said he is seeing a recurrence of drug dealing in the neighborhood as well as frequent gunshots. He noted that his tenants are intimidated by these actions. He commented that occasionally police presence stops this but the problem continues.

Carol Johnson, Block Captain of the Clearbrook Association, invited everyone to the National Night Out scheduled for August 6, 2002.

Rusty Jackson stated that he has a vested interest in this community. He said he is now in a faith based community service business, helping others purchase property in the community. He said several banks are questioning the safety and validity of those loans. He asked for implementation of a police foot patrol in this area. People need to see a police presence in this neighborhood.

Mayor Cooper commented on how hard the members of the community work to make their neighborhoods safe. She appreciated their effort. She noted that the Council would work very hard to make them feel safer in their neighborhoods.

Council Member Hilson recommended that this item be agendaized for a future work session with a proposed ad hoc committee, consisting of three council members. This proposed committee will appoint community members and bring in such staff as necessary to develop short and long-range strategies to successfully address the issues in this neighborhood, and utilize whatever resources are available to address the problems of drug trafficking and gang violence.

City Manager Armas commented that this item would be added to a Work Session Agenda after the recess in order for Council Members to proceed with it further.

Mayor Cooper indicated that she would meet with Bishop Macklin and whomever at some point during August, commenting that September was a long wait.

Council Member Henson asked whether it was proper to request that the City Manager to implement some of the more immediate solutions to the problem in the area.

City Attorney O'Toole noted that in accordance with charter regulations, it would not be



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appropriate for the Council to issue directives to the City Manager in this regard. He did note that he thought the City Manager had clearly heard the comments of the speakers as well as the Council in this regard.

City Manager Armas stated that he very recently spoke to Chief of Police Calhoun about this issue, and efforts are already being undertaken to solve these problems.

Council Member Jimenez spoke of his agreement with the other members and suggested that Council hear more of this issue at the first meeting in September.

Council Member Rodriquez spoke of the ground work which began last fall with the formation of the "Broom Committee" since the first thing was to clean-up the streets, particularly Tyrell. She spoke on the efforts by the City Police Department headed by Deputy Chief Houghtelling. She noted that there is a working group which should be incorporated into this effort.

Council Member Dowling asked for an update on what happened over the weekend and what the City response will be.

Mayor Cooper called for a five-minute break at 8:41 p.m.

After the recess, Mayor Cooper commented that Bishop Macklin would be calling her the next day for further discussion on this item.

## **CONSENT**

Item 6 was removed from the calendar and continued until July 23.

1. Approval of Minutes of the City Council Meeting of July 9, 2002

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried to approve the minutes of the City Council Meeting of July 9, 2002.

2. Adoption of an Ordinance Related to Zone Change PL-2002-0210 Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Modifying the Preliminary Development Plan for Certain Territory Located at 28438 Huntwood Avenue

Staff report submitted by City Clerk Reyes, dated July 16, 2002, was filed.

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried to adopt the following:

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Ordinance 02-07, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Modifying the Preliminary Development Plan for Certain Territory Located at 28438 Huntwood Avenue in a Planned Development District Pursuant to Zone Change Application No. PL 2002-0210"

3. Adoption of an Ordinance Amending Section 10-1.3510 of Article 1, Chapter 10 of the Hayward Municipal Code, Definition of "Hotel" and "Motel" in the Zoning Ordinance

Staff report submitted by City Clerk Reyes, dated July 16, 2002, was filed.

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Ordinance 02-08, "An Ordinance Amending Section 10-1.3510 of Article I, Chapter 10 of the Hayward Municipal Code, Definition of "Hotel" and "Motel" in the Zoning Ordinance"

4. Adoption of an Ordinance Related to an Amendment to the Contract with California Public Employees Retirement System

Staff report submitted by City Clerk Reyes, dated July 16, 2002, was filed.

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Ordinance 02-09, "An Ordinance Authorizing an Amendment to the Contract Between the City Council of the City of Hayward and the Board of Administration of the California Public Employees' Retirement System"

5. Authorization to Apply for Grant Funding Traffic Signal Battery Backup Systems

Staff report submitted by Deputy Director of Public Works Bauman, dated July 16, 2002, was filed.

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 02-109, "Resolution Authorizing the City Manager to Submit Grant Applications for Traffic signal Battery Backup System



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Funding”

6. Approval of Memorandum of Understanding with SEIU 790 (Clerical, Confidential and Maintenance Units)

Staff report submitted by Human Resources Director Perrin-Scales, dated July 16, 2002, was filed.

This item was continued until July 23, 2002 at staff's request.

### **HEARINGS**

7. Zone Change No. 2002-0223 - Request to Change the Zoning from RH-SD2 (High Density Residential with a Special Design District) to CG-SD2 (General Commercial/Mission Corridor Special Design District) - Matthew Zaheri (Applicant) -The property is located at 704-748 Berry Avenue

Staff report submitted by Associate Planner Pearson, dated July 16, 2002, was filed.

Planning Manager Anderly made the staff presentation noting the two lots on Berry will be walled off and reserved for employee parking with landscaping along that wall. She commented on the correspondence from people in the neighborhood expressing concern that the character of the neighborhood would change from residential to commercial and bring noise and traffic into their neighborhood. Members of the Planning Commission suggested a site plan review application for this parking area. The applicant is proposing to relieve the neighbors' concerns with a masonry wall along Berry Avenue and no access to it. This would create less traffic on Berry than a residential development would. She then responded to questions regarding the property, noting the requirements and restrictions of outside noise.

Council Member Henson commented that the neighbors expressed concern that this creates a potential for traffic. He then asked for further information regarding the applicant's plan.

Planning Manager Anderly explained that the owner of the adjacent home on the block lives in the house and is not interested in selling or relocating. She then pointed out the area which has been designated for re-zoning in the neighborhood.

Council Member Dowling asked about the adjacent property that will continue to maintain two houses.

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It was noted that the property will become a non-conforming parcel and the existing use will be rezoned.

Council Member Ward urged that staff continue to work to interface with the existing neighborhood, and educate them as to the effect of a zone change.

Planning Manager Anderly said the implications of the rezoning have been explained to the owner of the home as well as his family.

Council Member Hilson urged the use of trees in the landscape plan to buffer noise. He commented on the increased impacts to the neighborhood under the current zoning of a high-density project.

Planning Manager Anderly contrasted the present proposal with a high-density residential proposal for which this is zoned. She noted that without rezoning, the traffic would exit onto Berry. This proposal would have less of an impact on the neighborhood.

Council Member Rodriquez asked about the sidewalk and a traffic light. She commented that a sidewalk could be made a part of the building permit, if appropriate. She suggested that a sidewalk on the street would be helpful.

City Manager Armas noted that there could be an agreement to assure that, in the future, when the City improves the street, this applicant will improve the sidewalk.

Mayor Cooper opened the public hearing at 9:09 p.m.

Eric Douglas spoke on behalf of the Berry Avenue Neighborhood Association. He stated that the General Plan addendum was not noticed within the neighborhood. He wanted assurance that the applicant will comply with the condition not to have an entrance on Berry Avenue. He also noted that this is the first part of the street that is slated to be re-zoned to commercial. In his opinion, the City's Auto Row should be located on Mission Boulevard and not on residential streets. He urged affordable housing for the neighborhood.

Mayor Cooper commented that many times hearing notices are ignored by residents.

Jason Moreno commented on his experiences with auto dealerships using many of the narrow streets to test drive their autos. He asked for consideration of this issue. He then asked for further consideration of these traffic problems for the neighborhood as well.

Council Member Dowling asked Mr. Douglas if the neighborhood would be satisfied with installation of sidewalks along Berry.

Mr. Douglas said the neighborhood is willing to be courted regarding this as well as including the installation of a traffic light.



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George Abanesium, architect for the project, representing the owner, addressed some of the questions and concerns of the neighborhood. He showed the proposed site plan on Mission Boulevard and how the employees would use the entrance on O'Neil. He noted that 21 trees will be installed, as well as an 8-foot sound wall set back 10-feet with landscaping. Lights will be installed for security. He intended to mitigate neighborhood concerns. In response to the request to install sidewalks along Berry Avenue, the applicant said he would be willing to participate when the City approves the design for the street.

Council Member Dowling asked what efforts were made to acquire the adjacent property. He suggested that the dealership owner meet with the neighborhood.

Mr. Zaheri responded to Council questions and explained his current situation. He suggested there is a misunderstanding between his plans and the neighborhood on Berry. He said his need is to eliminate ingress and egress on his lot for security reasons.

Council Member Hilson commented on the negative impacts of this project to the neighborhood. He indicated that the owner is asking the City to do many things, but is unwilling to alleviate neighborhood issues.

Mr. Abanesium explained that this lot is merely for parking employees' cars. If it were used for high density residential there could be hundreds of cars added to the neighborhood.

Council Member Hilson then asked staff if there is a standard condition against test-driving in the neighborhood. He said it is needed. He inquired about the proposed cul-de-sac on O'Neil Street for emergency uses.

Planning Manager Anderly pointed out that this property was City-owned and the cul-de-sac does not exist today.

Council Member Hilson said access to O'Neil was totally unacceptable.

Council Member Henson commented on the potential negatives that may result from this project. He asked what enhancements have been used to mitigate the starkness of the solid wall. He asked the applicant whether he would be willing to install sidewalks along that street. He reiterated that this area would be used for employees' parking.

Mr. Abanesium said he would work with staff regarding landscape conditions, and he noted that the street would need to be re-designed prior to the installation of a sidewalk. However, in the future, he will be willing to install a sidewalk along the length of the property. He noted that the lighting would be required by the Police Department. Photocells and low voltage lighting will be used and

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light the property for security. He anticipated obtaining the building permit as soon as possible.

Mayor Cooper reminded her colleagues that they are voting on zone change and not design issues.

Council Member Ward noted that no conditions could be required at this time. He asked if the City has recourse to require that the applicant adhere to the offers he is making at this time. He then suggested that the applicant meet with the neighbors now that they have expressed their displeasure with the project.

Planning Manager Anderly commented that the performance standards mirror the offers being made. The building permit needs to comply with the design that has been proposed.

City Attorney O'Toole commented that an injunction could be garnered against the applicant for non-compliance.

Council Member Hilson asked for a more realistic simulation of the eight-foot wall than that which was presented.

Mayor Cooper commented that in other cities, San Mateo, for example, the showrooms are situated with landscaping in front. She asked why the architect did not design the office along the street.

Mr. Abanesium commented that such designs do work where there is more foot traffic. This property is quite narrow, but there is a need for customer parking. He commented on the size and configuration of the lot and building on the parcels.

Council Member Jimenez commented on his dilemma of voting against old friends in the neighborhood.

Mayor Cooper closed the public hearing at 9:48 p.m.

Planning Manager Anderly commented that rezoning the lot allows a variety of uses as primary uses according to the zoning ordinance.

Council Member Henson reiterated that this is an opportunity to discuss the project with the neighbors, the amount of work that needs to be done, but expressed his confidence that staff will work to mitigate neighborhood concerns. He then moved to introduce the Ordinance and approval of the resolution. Council Member Rodriguez seconded the motion.

Council Member Hilson asked why it was necessary to have an outlet on O'Neil.

Planning Manager Anderly and City Manager Armas responded that absent any improvements, there will be no access from O'Neil. City Manager Armas added that the applicant approached the City of Hayward to convey the property to him, but staff determined otherwise.





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Council Member Hilson agreed.

Council Member Dowling said that he was very supportive of new car dealers where it is appropriate, but he was not supportive of the motion. He noted the townhouses at the end of the proposed wall. He also suggested that perhaps the Council should look at this area again.

It was moved by Council Member Henson, seconded by Council Member Rodriquez, and carried to introduce the following ordinance and adopt the following resolution with a roll call vote as provided:

Ordinance 02-\_\_, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by changing the Zoning from RH-SD2 (High-Density Residential/Mission Corridor Special Design District) to CG-SD2 (General Commercial/Mission Corridor Special Design District) Pursuant to Zone Change Application No. 2002-0223"

Resolution 02-110, "Resolution Approving Zone Change Application No. 2002-0223 and Certifying that the Initial Study and Negative Declaration have been Completed in Compliance with the California Environmental Quality Act"

AYES: Council Members Rodriquez, Ward, Henson  
MAYOR Cooper  
NOES: Council Members Hilson and Dowling  
ABSENT: None  
ABSTAINED: Council Member Jimenez

**8. Adoption of Housing Element for the City of Hayward**

Staff report submitted by Neighborhood and Economic Development Manager Bauman, dated July 16, 2002, was filed.

Neighborhood and Economic Development Manager Bauman made a brief presentation. She emphasized that the City of Hayward was required by State law to develop a Housing Element. She commented on the number of meetings held to receive as much input as possible. She noted the comments directed by Council for changes in the Element.

Council Member Ward commended the group who worked to try to assure response for on-going housing issues in Hayward. He then discussed inclusionary units.

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Neighborhood and Economic Development Manager Bauman said the discussion of inclusionary would be held later when the Inclusionary Ordinance is taken before the Council.

Council Member Henson discussed the process of the commitment made by the City of Hayward. He referred to a report card giving the City of Hayward a failing grade by a group called "The San Francisco Housing Crisis Report Card." He emphasized that the Association of Bay Area Governments should not be letting out information that is imbalanced and biased.

Council Member Dowling asked when the Inclusionary Ordinance might be brought before council.

Neighborhood and Economic Development Manager Bauman responded that it should be brought to the Council by next year.

Council Member Jimenez commented that it was a very thorough report. He asked where the \$34 million expended for affordable housing had come from.

Neighborhood and Economic Development Manager Bauman explained that it includes City low- and moderate-income housing funds, Redevelopment Agency funding, community block grant funds, and mortgage revenue bonds, which the City issues for affordable housing.

Mayor Cooper opened the public hearing at 10:05 p.m.

Ralph Morales, Hayward Coalition for Affordable Housing, noted that there were twelve members of All Saints Church present. He acknowledged the effort on the part of the Council and staff in accommodating their concerns. He commented that their efforts would continue to focus on affordable housing and inclusionary housing. He said the bottom line is how many families are leaving Hayward because they cannot afford to live here. He said the coalition is now focusing on making sure there is affordable housing.

Mayor Cooper commented that at a recent conference of Mayors in Madison, Wisconsin, affordable housing was a protest issue. Every City is affected by this problem.

Mayor Cooper closed the public hearing at 10: 09 p.m.

Council Member Ward thanked the community groups and staff for their efforts toward adopting the Housing Element for the City of Hayward.

In supporting the motion, Council Member Henson commented that it was a good document and recognized it as a working document.

It was moved by Council Member Ward, seconded by Council Members Jimenez and Henson, and unanimously carried to adopt the following:

Resolution 02-111, "Resolution Adopting the Draft General Plan



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Housing Element and Relying on the Previously Certified  
Environmental Impact Report”

**COUNCIL REPORTS**

There were no Council Reports.

**ADJOURNMENT**

Mayor Cooper adjourned the meeting at 10:13 p.m. in memory of Police Officer Chris Myhra, who was killed in an automobile accident last Sunday morning. Officer Myhra is characterized as a great police officer with genuine concern for people. He previously worked for Daly City. He is survived by his wife, Aimee, and three young children. Mayor Cooper requested that a sizable tree be planted in his memory on City grounds. Funeral services will be at All Saints Church on Friday at 10:30 a.m.

APPROVED:

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Roberta Cooper, Mayor, City of Hayward

ATTEST:

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Angelina Reyes, City Clerk, City of Hayward

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